IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

R.S.A. No. 4251 of 2003(O&M)
Date of decision: January 15,2007

Mohinder Kaur and others V. Avtar Singh and others

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri N.S.Thind,Advocate, for the appellant.
Shri M.K.Garg, Advocate, for the respondents.

Viney Mittal,J.(Oral)

The plaintiffs are in second appeal. They have challenged the judgment and decree of the learned first appellate Court whereby on an appeal filed by the defendants, the judgment and decree of the trial court dated October 13,1999 were set aside and as a result thereof, the suit of the plaintiffs was dismissed.

The plaintiffs had filed a suit for permanent injunction claiming themselves to be the co-sharers of the suit property and on that basis have claimed that they being in actual physical possession of the suit land,were entitled to protect their possession and also that the defendants have no right to alienate the suit land in any manner.

The trial court decreed the suit filed by the plaintiffs. However, on appeal filed by the defendants, learned first appellate court has found that the plaintiffs are merely co-sharers of the suit land and there was no evidence on record to show that they are in actual physical possession of any portion of the joint holdings. Consequently, the first appellate court reversed the findings recorded by the trial court and dismissed the suit filed by the plaintiffs.

After hearing the learned counsel for the parties, I find that the findings recorded by the learned first appellate court cannot

be held to be erroneous, in any manner. There is absolutely no material on record to hold that the plaintiffs are shown to be in actual physical possession of the joint land. In these circumstances, the only remedy the plaintiffs have, is to seek the partition of the joint property.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

January 15,2007 (Viney Mittal)
sks Judge